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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/147,094	10/27/1998	AKIHIKO YAMASHITA	P-7355-8002	1236

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EXAMINER

SAJOUS, WESNER

ART UNIT	PAPER NUMBER
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2672

DATE MAILED: 02/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

GB

Office Action Summary

Application No.
09/147,094

Applicant(s)
Yamashita et al.

Examiner
Wesner Sajous

Art Unit
2672



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Dec 19, 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-13 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4 and 5 is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-9, and 11-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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DETAILED ACTION

Remarks

This action is responsive to the amendment and communication filed on December 19, 2001. By this amendment, claims 1-3, 5, and 11 are amended. Claims 1-9, and 11-13 are presented for examination.

Response to Amendments/Arguments

112 First Rejections

With respect to the 35 U.S.C 112 first (single means) rejections set forth in the previous action, the Examiner concedes that only claims 1-3, 5 and 11 recited a single means plus function clause and, these claims, in view of the amendments, are believed to obviate the rejections. As a result, the rejections are withdrawn.

103 Rejections

(a) At pages 3-5 of the response the Applicants contend that, with respect to claims 1-3 and 11, the system of the invention is different from the system of Lett, which does not suggest or teach all the elements of the present invention.

Applicant's arguments do not comply with 37 CFR 1.111© because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, the arguments by the Applicants, at page 4 paragraph 4, indicates that the office action broadly interpreted the

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limitation of “means for displaying to discriminate a time period based on designation by a user” to read on cursor movement and highlighting selection of a selected program by a user, and later concludes that in the present invention, in contrast, an audience can visually recognize the chosen time period. This portion of the argument is only amounting to a general allegation that the claims define a patentable invention but it does not specifically point out how the language of the claims patentably distinguishes them from the references. It does not show how the amendments or the language in the claims avoid such reference. As a result, the rejections are maintained.

(b) With regards to claims 6-9, 12 and 13, at page 5, paragraphs 2 and 3 of the response, Applicants argue that Lett fails to disclose or suggest the limitation of a discriminatingly displaying means for effecting the display to discriminate the time period set by the user and other time periods, and that fig. 6 of Lett illustrates a PPV program displayed in a cell that is highlighted.

In response, the Examiner respectfully disagrees. The pointed illustration of fig. 6 as the equivalence to the recited claim limitations is to denote the Examiner broad interpretation of the claimed feature as broadly presented, and separate from the Applicants interpretations of the limitation, as described in paragraph 3 of the response. From that illustration, it is deciphered that the user selection of the PPV program “Terminator 2” was highlighted and fall within the time period of 8:00-9:30. This highlighted selection is noted to be distinguished between other time periods of other programming. Thus, Applicants’ argument is not persuasive. The rejections are maintained

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© With respect to claims 4 and 5, these claims are allowed over the prior art, since the Examiner cannot now find and provide any evidence supporting the Official Notice that the means for displaying a mark indicating a direction of the channel axis and direction of purchased program purchased is present.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 6-9, 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lett, patent number (WO 95/28799).

Considering claims 1-3, Lett, at fig. 4, sets forth and illustrates a method for displaying a plurality of program guides on a display unit in a matrix form by using one the ordinate (62) and the abscissa (60) as a channel number axis and another one as a time axis as claimed by the present invention, but lacks explicit recitation for the claimed means for displaying to discriminate a time period based on designation by a user in which a purchased program is present and a time period in which the purchased program is not present.

Nonetheless, Lett, at page 24, describes that by moving a cursor location, a user can select a program for viewing by highlighting a channel along with a time slots. This technique could be

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used for pay-per-view (ppv) event selection (page 25). The highlighted portion in the guide corresponds to the channel and time period at which the chosen pay-per-view event will be provided. A pay-per-view program could be purchased for a 1-day period. See, for example, figures 5-6, the "Terminator 2" selection, and figure. 15. The subscriber terminal will automatically tune the purchased event, or send a message alert to the user while watching another program when the ppv event begins (page 26). It is to be understood that the highlighted portion selected by the user could have been used as a means to distinguish between the ppv events and the non-ppv events, and the time period between which the programs are showing.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Lett, wherein a display to discriminate a time period based on designation by a user in which a purchased program is present and a time period in which the purchased program is not present is provided. In modifying Lett as such, a user would be able to make the determination of when a pay-per-view program is showing and watching another program with no fears of missing the already purchased program. Colors could have been applied on the grid guide to distinguish between the ppv programs and the non-ppv programs (page 26).

Considering claims 6-7, Lett sets forth all claimed limitation of the invention:

a) the claimed "setting means to allow the user to set an arbitrary time period to be set by a user" is equivalent to the actuation of a key in remote control 26 of fig. 1;

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b) the claimed “discriminatingly displaying means for effective a display to discriminate a time period set by the user and other time period to be displayed in different colors...” is equivalently met by fig. 6. Note that the user selection of “Terminator 2” have time periods (8:00-9:30) which discriminate between other time periods of other programming. It could be displayed in other colors in comparison to the non-selected programming.

In claims 8, and 9 the claimed “setting means allows the starting time and end time...” and the claimed “set for each day of the week by the user” would have been obvious over Lett’ disclosure, figures 13-14 since Lett provides the display of program guide schedule which is interacted with by a user by means of a remote control. Such guide could have included the start and ending time, and day of the week for a particular program.

Claim 11 is for the apparatus of claim 1 and is similarly rejected.

Claim 12 is for the apparatus of claim 6 and is similarly rejected.

Claim 13 includes the limitations of claims 6-8, and is rejected by the same basis and rationales set forth in above claims 6-8.

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Or:

(703) 308-6606 (for informal or draft communications, please label

"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal

Drive, Arlington, VA., Sixth Floor (Receptionist

Commissioner of Patents and Trademarks

Washington, DC 20231

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Wesner Sajous** whose telephone number is (703) 308- 5857. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi, can be reached at (703) 305-4713. The fax phone number for this group is (703) 308-6606.

Wesner Sajous - WPS

Patent Examiner, art unit 2672

February 18, 2002



MATTHEW LUU
PRIMARY EXAMINER